

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 1:24-CV-20546-WILLIAMS/GOODMAN

WINSTON MARACALLO,

Plaintiff,

vs.

CUSANO AIR CONDITIONING
& HEATING, INC. AND
JOHN E. CUSANO,

Defendants.

/

PLAINTIFF'S UNOPPOSED MOTION
TO RESCHEDULE SETTLEMENT CONFERENCE

Plaintiff, Winston Maracallo, requests that the Court reschedule the Settlement Conference in this case from May 16, 2024, due to a scheduling error by the undersigned, the lack of opposition, and the below good cause as follows:

Introduction

Plaintiff erred in offering May 16, 2024, as an available date for the Settlement Conference, when the attorneys at the undersigned law firm will be out of the State of Florida (Mr. LaRou) and attending a previously scheduled multi-party mediation (Mr. Pollock). Of course, that's the date the Court selected. Plaintiff requests the Court to reschedule the Settlement Conference and has obtained dates of May 20, 21, 22, and 28, 2024, as alternatives.

The Motion

1. On February 20, 2024, the Court entered its Order of Referral and Notice of Court Practice in FLSA Cases [ECF No. 7], requiring that: (i) Plaintiff file his Statement of Claim by

March 1, 2024, and, upon Defendants first appearance, promptly serve Defendants with a copy of the same along with copies of the Order and all documents supporting Plaintiff's claims; (ii) Defendants file a Response to the Statement of Claim within ten days of its service, and produce all documents supporting their Response; and (iii) the parties attend a Settlement Conference before Magistrate Judge Jonathan Goodman within forty-five (45) days after the date that Defendants' Response to Plaintiff's Statement of Claim was due.

2. Plaintiff filed his Statement of Claim on March 1, 2024 [ECF No. 12].

3. Defendants first appeared in this case on March 27, 2024, after contacting the undersigned, upon filing their Unopposed Motion for Extension of Time to Respond to Plaintiff's Complaint [ECF No. 16].

4. That same day, Plaintiff served Defendants with the Statement of Claim, the Court's Order, and all supporting documents—making Defendants' Response to the Statement of Claim due on or before April 11, 2024. *See* Plaintiff's Notice of Compliance [ECF No. 18].

5. On April 12, 2024, after Defendants filed their Response to Plaintiff's Statement of Claim, the Court entered its Paperless Order [ECF No. 22] requiring that the parties jointly file a notice on or before April 19, 2024 “listing four (4) dates on which counsel, their clients, and any insurance adjuster(s) are available for an in-person settlement conference.”

6. After conferring, the parties filed their Joint Notice of Availability for Settlement Conference on April 19, 2024, listing four (4) potential dates to conduct the Settlement Conference: May 16, 20, 21, and 22, 2024 [ECF No. 24].

7. Shortly thereafter, the Court entered its Order Scheduling the Settlement Conference for May 16, 2024, beginning at 10:00 a.m. [ECF No. 25].

8. Plaintiff inadvertently included date of May 16, 2024, in the parties' Joint Notice of Availability.

9. Prior to filing the parties' Joint Notice of Availability, the undersigned attorney scheduled and arranged to travel outside the State from May 15 through May 19, 2024, to attend his brother's college graduation. These travel plans were inadvertently omitted from the undersigned's firm calendar, resulting in his office offering this date as available for events in this case.

10. Brian H. Pollock, Esq., the only other attorney of the undersigned firm with whom this Court is familiar, is scheduled to attend a mediation of over 40 cases presently pending with the American Arbitration Association Case on May 16, 2024, beginning at 9:00 a.m.

11. Per the Court's Order of Referral and Notice of Court Practice in FLSA Cases, the parties must conduct their Settlement Conference by May 26, 2023—forty-five (45) days after Defendants' Response to the Statement of Claim was due [ECF No. 7].

12. The parties conferred and are available on the following dates to reschedule the Settlement Conference for the following dates: May 20, 21, 22, and 28, 2024. Although May 28, 2024, is outside of the 45-day window, the parties were unable to coordinate any other dates due to commitments in other matters previously scheduled.

13. The undersigned contacted defense counsel, who did not oppose rescheduling the Settlement Conference (to enable the undersigned to attend his brother's college graduation in Virginia).

WHEREFORE Plaintiff, Winston Maracallo, requests that the Court reschedule the date of the parties' Settlement Conference due to the good cause shown above.

Respectfully submitted this 23rd day of April 2024.

s/ Patrick Brooks LaRou
Brian H. Pollock, Esq.
Florida Bar No. 174742
brian@fairlawattorney.com
Patrick Brooks LaRou, Esq.
Florida Bar No. 1039018
brooks@fairlawattorney.com
FAIRLAW FIRM
135 San Lorenzo Avenue, Suite 770
Coral Gables, Florida 33146
Telephone: (305) 230-4884
Counsel for Plaintiff